

International Union of Operating Engineers

LOCALS 542, 542-RA, 542-C, 542-D

ROBERT HEENAN

Business Manager

CHARLES PRISCOPO, Ass't Bus. Mgr.
JAMES REILLEY, President
MIKE MAZZA, Vice President

AFFILIATED WITH THE
AND BUILDING



AMERICAN FEDERATION OF LABOR
TRADES DEPARTMENT

THOMAS P. DANESE, Recording Secretary
JAMES T. JONES, Treasurer
PAUL HEADLEY, Financial Secretary

1375 VIRGINIA DRIVE - SUITE 100, FORT WASHINGTON, PA 19034
(215) 542-7500
Fax: (215) 542-7557

July 20, 2009

Via of Facsimile and Regular Mail

Regional Director Dorothy Moore-Duncan
National Labor Relations Board Region 4
615 Chestnut Street -Seventh Floor
Philadelphia Pa 19106

Re: Objection to Formal Settlement Agreement (4-CA-35669-4-CA-36542)

Dear Regional Director:

The Union hereby objects to the Formal Settlement agreement as per the above reference matter for the following reasons:

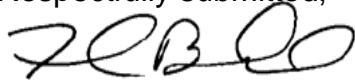
1. The Employer has agreed to enter into the Formal Settlement Agreement with admittance to violation of the National Labor Relations Act. Therefore, all previous due consideration of the Informal Settlement Agreement should be null. They are the following:
 - a. Refusal to consider and hire Job applicants.
 1. All applicants have now been refused to be considered twice in less than a 2 year span by this employer.
 - b. Instatement period per Informal Settlement Agreement.
 1. Instatement was being worked out before the Region brought into play Oil Capitol. Once Oil Capitol calculations of back pay and instatement time was mandated, the Employer removed any consideration for instatement, although, hired applicants during the time the Region and Employer worked out an Informal Settlement Agreement.
 - c. Oil Capitol calculation of wages and benefits.
 1. Oil Capitol must be recalculated with current figures since many factors have changed.
 - d. 20% discount in regards to 1-c for entering into informal settlement agreement.

1. The Region has always discounted penalties for an Employer who takes a forthright approach to rectify a violation. This was a con-job at best by Lewis and this factor should be dismissed and made whole.
2. The Region has now modified the Formal Settlement Agreement in 2-b by now only considering employment for Job Applicants for Operating Engineers positions or substantially equivalent positions.
 - a. The Informal Settlement Agreement as in 6-a gives Bankard, Fehrel and Wolf opportunity for equipment operator positions and field techs. The Region has modified giving Applicants less ability to be hired and bought into a new modification of hiring and consideration of applicants by the Employer, although, the job performed at State Road in Philadelphia which Lewis performed work, had both types of employees (equipment operators and field techs) employed for months, primarily because it was a Davis Bacon job and field tech paid more per hour not including benefits than Lewis merit base pay was for equipment operator. NO EQUIPMENT WAS ON SITE AT THIS JOBSITE!!!!

Counsel for Lewis has argued that previous Lewis Counsel performed their representative duties poorly, and refusal to consider Bankard, Wolf and Fehrle for jobs in 2008 was an oversight. Not True! Director Brandon Smith clearly indicated to job applicant Pete Cosby that Lewis was in the mist of a hiring problem, although, about to be resolved in a week or so when Pete Cosby approached a Lewis jobsite in Middletown De and Mr. Smith was very interested in Mr. Cosby as a 'New hire'.

Simple question, what did Mr. Smith mean by a hiring problem? Is their no nexus of August 1st 2008 and Lewis obligations under the Informal Settlement Agreement resolved? Now the Region has bought into Lewis 'New' Counsel slick maneuvering of the Law.

Respectfully submitted,



Frank Bankard
Local 542